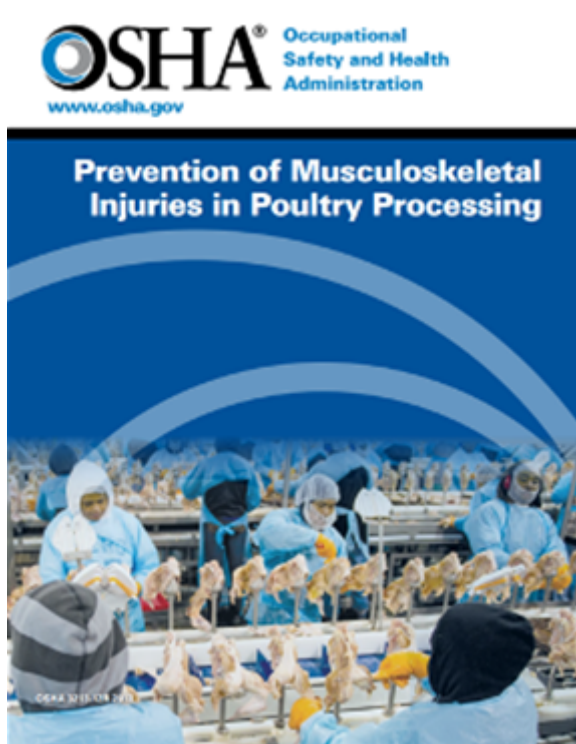


OSHA Ergonomic Citations Are Not that Common - Lessons from the Citation Below?

Insights
10.30.14



Poultry plant cited for exposing workers to musculoskeletal, other repeat, serious safety and health hazards *OSHA proposes more than \$102K in fines for serious, repeat violations*

It's not that easy for OSHA to make out citations based on musculoskeletal disorder hazards because OSHA does not have an ergonomic standard. OSHA will take a shot at certain industries, especially the poultry industry. Read the OSHA News Release below for an idea of what OSHA looks for when it's on the ergonomic hunt. And of course, this is an OSHA Press Release, so we don't know if the hazards existed or other facts.

Note too that a third party, the Southern Poverty Law Center filed the citations, probably as part of broader challenges against the poultry plant, perhaps including wag-hour or union organizing efforts. Third party groups are aware of how to employ OSHA citations as part of a broader campaign. Note too, the close cooperation between this third party group and OSHA in approaching the industry. Apparently, OSHA is working hand-in-glove with the SPLC, which concerns me. What are their broader goals. Moreove, our past experience has been that supposed employee witnesses

are less credible when coached by third party groups or who have other legal actions pending. Employers should be concerned anytime OSHA focuses on an entire company and references an industrywide scrutiny. That's not to say that no safety issues exist, but the chance of the process being skewed becomes much higher.

Finally, note the criticism of how the plant used its own occupational health resources. Was the plant trying to avoid or hide injuries, or was it merely trying to manage injuries, including suspect cases? OSHA definitions of medical treatment make it difficult for employers to provide even some sorts of arguably proactive responses such as stretching regimes or exercise protocols. Also, while an employer has a completely valid reason to tightly manage the worker injury process, including to assist employees in swift recovery, employers need to be mindful of how their efforts may be portrayed.

The poultry company has been cited by the U.S. Department of Labor's Occupational Safety and Health Administration for exposing workers to dangerous machinery, fall and musculoskeletal disorder hazards. OSHA issued 11 citations to the poultry processing plant in Jack, including nine serious, one repeat and one other-than serious violation. **The investigation was initiated after the agency received a complaint from the Southern Poverty Law Center. Proposed penalties total \$102,600.**

"OSHA found that workers in this plant were exposed to safety and musculoskeletal hazards and suffered serious injuries as a result. The outcome of this investigation deepened our concern about musculoskeletal hazards in poultry plants, where employees are at increased risk of developing carpal tunnel syndrome and other disorders that affect the nerves, muscles and tendons," said Assistant Secretary of Labor for Occupational Safety and Health Dr. David Michaels. "These types of injuries are preventable by implementing appropriate engineering and administrative controls in the workplace, and when they occur, they must be treated early with appropriate medical care to prevent the illness from progressing. However, in this plant, OSHA found workers were often required to seek assistance from the company's on-site nurse many times before they were referred to a physician."

On Aug. 1, the U.S. Departments of Agriculture and Labor mailed a joint letter to all poultry plants regarding their responsibility to prevent work-related musculoskeletal disorders.

"Our investigation revealed that employees suffered musculoskeletal injuries, and Wayne Farms failed to record those injuries and properly manage the medical treatment of injured employees at the facility," said Joseph Roesler, OSHA's area director in Mobile. "By failing to report injuries, failing to refer employees to physicians and discouraging employees from seeking medical treatment, Wayne Farms effectively concealed the extent to which these poultry plant workers were

suffering work-related injuries and illnesses. And as a result, it reported an artificially lower injury and illness rate."

One repeat violation, with a penalty of \$38,500, was cited for the employer's failure to protect workers from moving parts of a machine during servicing and maintenance work. In this instance, the employer lacked lockout/tagout procedures for maintaining a plastic strapping machine, something it failed to do following a previous OSHA inspection in February 2012 at the company's Enterprise, Alabama, facility. A repeat violation exists when an employer previously has been cited for the same or similar violation of a standard, regulation, rule or order at any facility in federal enforcement states within the last five years.

Seven serious violations, carrying penalties of \$49,000, involve exposing workers to serious safety hazards, including unguarded machines, slippery floors and fall hazards. In addition, OSHA issued two more serious general duty clause citations for musculoskeletal disorder hazards with penalties of \$14,000. One general duty clause citation was issued for exposing employees on the debone line to hazards while performing prolonged, repetitive, forceful tasks, often while using awkward postures. OSHA issued the second general duty citation for exposing employees to the stressors of repetitive lifting and carrying of totes filled with chicken that can weigh in excess of 75 pounds. A serious violation occurs when there is substantial probability that death or serious physical harm could result from a hazard about which the employer knew or should have known.

Another violation, with a \$1,100 penalty, was cited for failing to record serious work-related injuries on OSHA's 300 form for tracking work-related injuries and illnesses, as required.

The current citations are available at
http://www.osha.gov/ooc/citations/WayneFarms_975114_1028_14.pdf*

Since 1994, OSHA has conducted 33 inspections at Wayne Farms facilities in Alabama, Georgia and Mississippi. The most recent inspection at the Jack plant was conducted in June 2011 when the company was cited for record-keeping violations.

Under appropriate circumstances, OSHA uses the general duty clause [section 5(a)(1) of the Occupational Safety and Health Act of 1970] when it does not have a specific standard addressing a workplace hazard. Under this provision, an employer can be cited if it does not furnish each of its employees' employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious physical harm.

The company is the sixth largest vertically integrated poultry producer in the United States. Its corporate office, based in Oakwood, Georgia, and its Jack plant have a combined estimated 1,115 employees. The company employs approximately 9,800 additional workers in its nine integrated complexes, comprised of nine hatcheries, eight feed mills, nine slaughter processing plants and two further processing plants. Wayne Farms' plants are located in Albertville, Alabama; Decatur,

Alabama; Dothan, Alabama; Enterprise, Alabama; Union Springs, Alabama; Danville, Arkansas; Laurel, Mississippi; Dobson, North Carolina; and Pendergrass, Georgia.

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